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ORIGIN SS-15

INFO OCT-01 CCO-00 RSC-01 SSO-00 ISO-00 /017 R

66615

DRAFTED BY S/S-O: PSARROS

APPROVED BY S/S-O:PSARROS

S/S:DMILLER

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O 280030Z FEB 74 ZFF4

FM SECSTATE WASHDC

TO AMCONSUL JERUSALEM IMMEDIATE

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TOSEC 165

FOL REPEAT GENEVA 1304 SENT ACTION SECSTATE INFO SAIGON

USUN PARIS MOSCOW FEB 27

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LIMITED OFFICIAL USE GENEVA 1304

E.O. 11652: N/A

TAGS: PARM, ICRC

SUBJECT: GENEVA DIPLOMATIC CONFERENCE ON LAW OF WAR

1. SUMMARY: AFTER FIRST DAY OF RESUMED PLENARY MEETINGS OF DIPLOMATIC CONFERENCE, CONFERENCE HAS SHOWN ITSELF TO BE IN CHAOS. CHAIRMAN OF CONFERENCE, SWISS FONMIN GRABER, INCAPABLE OF HANDLING SITUATION. MOREOVER GRABER DISREGARDED COMPROMISES WE THOUGHT WORKED OUT BY CONTACT GROUP OF REPRESENTATIVES OF REGIONAL GROUPS. AFTER TUMULTUOUS PROCEDURAL DEBATE, WITH NO REULES OF PROCEDURES IN FORCE, CONFERENCE DECIDED THAT ANY DECISION RELATED TO INVITATIONS TO PARTICIPATE WOULD BE ADOPTED BY SIMPLE MAJORITY. VOTING PATTERN THAT EMERGED WAS, ON ONE SIDE, ABOUT 63 VOTES CONSISTING OF AFRICANS, SWEDEN, NORWAY, LIMITED OFFICIAL USE

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FINLAND, EE'S, AND SOME LA'S; ON OTHER SIDE, ABOUT 30

VOTES, CONSISTING OF REMAINDER OF WEO'S, INCLUDING US AND DENMARK, JAPAN, ISRAEL, SOME LA'S, AND SOUTH AFRICA; WITH ABOUT 14 ABSTENTIONS INCLUDING FRANCE, MEXICO, TURKEY, PHILIPPINES, AUSTRIA, IRELAND, AND SOME LA'S. END SUMMARY.

2. MORNING PLENARY SESSION BEGAN WITH CHAIRMAN GRABER PROPOSING THAT THE ISSUE OF INVITATIONS TO PARTICIPATE IN CONFERENCE BE TAKEN AS PRIORITY TOPIC, WITH ELECTION OF BUREAU AND ADOPTION OF RULES OF PROCEDURE TO FOLLOW. GRABER SUGGESTED THAT UNDER THE TOPIC OF INVITATIONS, FIRST ISSUE TO BE DECIDED WOULD BE WHAT MAJORITY REQUIRED; SECOND ISSUE WOULD BE GUINEA-BISSAU; THIRD ISSUE PRG; AND FORTH ISSUE NATIONAL LIBERATION MOVEMENTS. GRABER ASKED FOR COMMENTS SOLELY ON THE ISSUE OF WHETHER PRIORITY SHOULD BE ACCORDED TO INVITATIONS, AND REMAINDER OF MORNING SESSION AND GOOD PART OF AFTERNOON SESSION TAKEN UP WITH SPEAKERS ON THIS, MANY OF WHOM ALSO COMMENTED ON SUBSTANCE.

3. GRABER, IN MAKING HIS SUGGESTION THAT INVITATIONS BE CONSIDERED FIRST HAD REFERRED TO RESOLUTIONS TABLED ON EACH OF THESE ISSUES AND INDICATED THAT THEY WOULD FORM BASIS FOR DECISION BY CONFERENCE (SEE GENEVA'S 1189, 1190 AND 1191). THIS PROCEDURE DISREGARDED AGREEMENT WE THOUGHT REACHED IN CONTACT GROUP. CONTACT GROUP HAD AGREED THAT IT WOULD BE ACCEPTABLE FOR GRABER TO ANNOUNCE THAT WIDE SENTIMENT FAVORED INVITATION TO GUINEA-BISSAU AND THAT HE WOULD DO SO, PROVIDING CONFERENCE GIVE OPPORTUNITY FOR DELEGATIONS TO EXPRESS THEIR DISSENT AND RESERVATIONS. ON NATIONAL LIBERATION MOVEMENTS, CONTACT GROUP HAD AGREED ON COMPROMISE TRANSMITTED SEPTTEL WHICH MAY IN FACT HAVE REPLACED RES IN GENEVA 1189. WE THUS THOUGHT, AND HAD URGED GRABER, THAT THESE ISSUES BE DISPOSED OF WITHOUT VOTE, LEAVING ONLY THE ISSUE OF PRG TO BE VOTED. THIS WOULD ALSO ASSURE THAT THE QUESTION OF WHETHER SIMPLE OR TWO-THIRDS MAJORITY REQUIRED WOULD ONLY APPLY TO PRG ISSUE. GRABER, HOWEVER, BEHAVED IN PLENARY MEETING AS IF NONE OF WORK OF CONTACT GROUP ON COMPROMISE LIMITED OFFICIAL USE

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SOLUTIONS HAD OCCURRED.

4. DEBATE ON WHETHER TO TAKE INVITATIONS AS PRIORITY MATTER ENDED ON UNANIMOUS ADOPTION OF MOTION BY SENEGAL TO CLOSE DEBATE. GRABER ANNOUNCED THAT AS ALL (EXCEPT ONE, PORTUGAL) HAD FAVORED OR ACQUIESCED IN PRIORITY TO INVITATIONS ISSUES, CONFERENCE HAD DECIDED TO GIVE PRIORITY TO THEM.

5. GRABER THEN SUGGESTED PUTTING TO VOTE FOLLOWING RESOLUTION SUBMITTED BY ALGERIA, BANGLADESH, BULGARIA, BYELORUSSIAN SOVIET SOCIALIST REPUBLIC, CONGO, CUBA, CZECHOSLOVAKIA, DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA, DEMOCRATIC REPUBLIC OF VIETNAM, GERMAN DEMOCRATIC REPUBLIC, HUNGARY, MADAGASCAR, MALI, MAURITANIA, MONGOLIA, PEOPLE'S DEMOCRATIC REPUBLIC OF YEMEN, POLAND, ROMANIA, SENEGAL, SUDAN, SYRIA, TANZANIA, UGANDA, UKRAINIAN SOVIET SOCIALIST REPUBLIC, UNION OF SOVIET SOCIALIST REPUBLICS, YUGOSLAVIA:

"THE DIPLOMATIC CONFERENCE ON THE REAFFIRMATION AND DEVELOPMENT OF INTERNATIONAL HUMANITARIAN LAW APPLICABLE IN ARMED CONFLICTS,

"HAVING CONSIDERED THE QUESTION OF INVITATIONS TO TAKE PART IN ITS WORK,

"RESOLVES THAT ANY DECISION RELATING TO INVITATIONS TO PARTICIPATE IN THE CONFERENCE SHALL BE ADOPTED BY A SIMPLE MAJORITY OF VOTES OF THE REPRESENTATIVES PRESENT AND VOTING."

6. US, MONACO AND ITALY HAD INTRODUCED AMENDMENT PROVIDING: "IN THE OPERATIVE PARAGRAPH OF THE DRAFT RESOLUTION, REPLACE THE WORD 'SIMPLE' BY THE WORDS 'TWO-THIRDS'".

7. CONFERENCE THEN UNDERTOOK CHAOTIC PROCEDURAL DISCUSSION, WITH SOVIETS, AFRICANS, INDIANS AND SOME OTHERS ARGUING THAT US "AMENDMENT" WAS NOT IN FACT AMENDMENT BUT WAS A NEW PROPOSAL AND THEREFORE SHOULD BE VOTED ON ONLY IF PROPOSAL FOR SIMPLE MAJORITY REJECTED. DURING DISCUSSION LIMITED OFFICIAL USE

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OF THIS TOPIC SENEGAL AT ONE POINT PROPOSED CLOSING DEBATE, BUT AS THERE NO RULES OF PROCEDURES, DEBATE BEGAN ON MOTION TO CLOSE DEBATE. SENEGAL THEN CHANGED MOTION INTO ONE TO CLOSE LIST OF SPEAKERS. DURING DEBATE ON THIS MOTION GRABER SUGGESTED WE ADOPT RULE THAT ONLY TWO SPEAKERS COULD SPEAK IN FAVOR AND TWO AGAINST ANY MOTION OF ORDER. CANADA PROPOSED ADJOURNMENT OF MEETING, WHICH, AFTER FOUR SPEAKERS, VOTED DOWN BY A VOTE OF 43(US)-63-2. VARIOUS SUGGESTIONS THAT USDEL CONSIDER ITS "TWO-THIRDS" CHANGE A PROPOSAL AND NOT AN AMENDMENT FIRMLY REJECTED BY US REP ALDRICH, WHO SAID PROCEDURE HAD BECOME RIDICULOUS. FINALLY, GRABER PUT TO CONFERENCE ISSUE OF WHETHER CONFERENCE CONSIDERED US PROPOSAL AN AMENDMENT. VOTE WAS 31(US)-IN FAVOR, 58 AGAINST, WITH

14 ABSTENTIONS.

8. GRABER THEN PUT RESOLUTION CONTAINED PARA 5 ABOVE TO VOTE. IT CARRIED BY VOTE OF 64-28(US)-14 (WITH VOTING BREAKDOWN AS INDICATED IN SUMMARY PARAGRAPH).

9. COMMENT: IT APPEARS THAT, WITHOUT RULES OF PROCEDURE, WE ARE AT MERCY OF APPROXIMATELY 2 TO 1 MAJORITY OF AFRICANS, EE'S, SOME ASIANS, SWEDEN, NORWAY AND FRIENDS. THEY SHOW NO INCLINATION TO BEHAVE REASONABLY OR TO APPLY ANY RATIONAL STANDARDS TO THE CARRYING ON OF THE DEBATE. THIS AUGERS ILL BOTH FOR THE IMMEDIATE FUTURE--I.E., THE OUTCOME ON NATIONAL LIBERATION MOVEMENTS AND ON THE PRG-- AS WELL AS FOR THE ENTIRE CONFERENCE AND ITS WORK IN THE DEVELOPMENT OF REASONABLE RULES OF LAW.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW, WAR, HUMAN RIGHTS, MEETINGS, DIPLOMATIC DISCUSSIONS, TOSEC 165
Control Number: n/a
Copy: SINGLE
Draft Date: 28 FEB 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: morefirh
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974STATE039733
Document Source: CORE
Document Unique ID: 00
Drafter: O: PSARROS
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t1974022/aaaaabpb.tel
Line Count: 188
Locator: TEXT ON-LINE
Office: ORIGIN SS
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: morefirh
Review Comment: n/a
Review Content Flags:
Review Date: 26 APR 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <26 APR 2002 by elyme>; APPROVED <10 JUN 2002 by morefirh>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: GENEVA DIPLOMATIC CONFERENCE ON LAW OF WAR
TAGS: PARM, ICRC
To: JERUSALEM
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005